

Breaking the Mold: A New Approach to Range Reform

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ABSTRACT

Public rangeland policy is failing for fiscal, ecological and equity reasons. Federal agency grazing programs are plagued by deep deficits, range conditions are unsatisfactory in many areas, and range resources are not equitably distributed. A new policy approach is needed—a market-driven one that shifts costs to range users, protects range resources, and ensures equal opportunity to all. Under such an approach, existing grazing permits would be grandfathered-in as 30-year (or more) public land leases and would be fully marketable for uses and users that include but are not limited to ranching and ranchers. Prescriptive management of public rangelands would be replaced by outcome-based management. Lease holders would enjoy broad managerial discretion within the bounds set by localized standards. Elected resource councils would give policy direction to land agencies and set local standards. Bio-Diversity Trust Funds, financed from public land revenues and distributed by resource councils, would be used to protect non-market amenities.

RANGELAND POLICY: AN HISTORICAL OVERVIEW

Since the turn of the century, three issues have set the theme, pace and direction of debate for public rangeland policy. Those issues are:

- 1) the **fiscal state** of public rangelands;
- 2) the **ecological condition** of public rangelands; and
- 3) the **degree of equity** in the allocation of public rangeland costs and benefits.

Fiscal State of Public Rangelands²

Grazing fees were first assessed on public lands in 1906 by the U. S. Forest Service for the purpose of covering the administrative costs of livestock grazing. Over the years, controversy has arisen regarding 1) the comparability of public land grazing fees to private land lease rates and 2)

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² As applied in this paper, the terms "public rangelands" and "public lands" refer to both BLM and Forest Service lands.

the extent to which fee revenues do or do not cover government administrative costs.

The GAO concluded in 1991 that the current fee formula significantly understates the market value of grazing on public lands.³ In contrast, economists at several western universities believe that the same formula "capture[s] the market value of the [public] forage if the rancher's investment in the grazing permit is recognized."⁴

Both arguments are true. The GAO is correct: the current grazing fee does not return revenues to the U.S. Treasury commensurate with private land lease rates. Also, fees have not kept pace with inflation. The 1980 fee, when inflation adjusted, is 300% greater than the 1996 fee. Economists, too, are correct: below-market grazing fees are capitalized into the value of grazing permits. The real fee paid by ranchers is the formula fee plus the cost of interest on capital invested in the permit.

Taxpayers, of course, collect only the portion of the value of public land grazing that is set by the formula fee (minus the 50 percent of fee revenues returned, by law, to ranchers in the form of range improvements). The greater residual value, the capitalized "subsidy" so to speak, goes elsewhere. It is traded among ranchers, sold initially as windfall profit and then paid for as a routine cost of ranch operations.

The grazing fee problem entails more than a public shortfall in revenue, though. Even if taxpayers captured the full market value of public land forage, the grazing programs of the Bureau of Land Management (BLM) and the U.S. Forest Service would still be selling grass at below taxpayer cost. Official agency figures put the combined public land grazing deficit at almost \$100 million per year.⁵ That figure, however, likely understates the true deficit and the true cost of the federal grazing programs. Data from the Office of Policy Analysis in the U. S. Department of the Interior, for example, place the actual BLM grazing deficit at or above \$200 million annually.⁶ Assuming the Forest Service deficit is similarly understated, the real taxpayer tab for public land grazing may be as much as \$400 million each year.

Higher grazing fees, even if elevated to full market value, will not substantially reduce the current public land grazing deficit. Instead, federal costs must be reduced.

Ecological Condition of Public Rangelands

Questions of rangeland health cast the darkest cloud over the public land grazing programs of the BLM and the Forest Service. Data collected since 1935 show only moderate improvement in rangeland ecological condition. Moreover, most of that improvement comes from ending the pre-1935 open range, not from intensive federal management and vast, taxpayer-financed range reclamation and restoration projects. If anything, a long history of prescriptive management by the federal land agencies in conjunction with disincentive-laden public policies and federally-subsidized rangeland projects have fostered and deepened degradation of arid public lands.

Regulatory factors, such as the federal grazing permit system, its formalization of overstocking, its politicization of grazing management, and its institutionalization of market failure, have made

³ General Accounting Office, "Rangeland Management: Current Formula Keeps Grazing Fees Low," June 1991.

⁴ E.T. Bartlett et al., "The Market Value of Public Land Grazing: Implications for Grazing Fee Policy," in *Current Issues in Rangeland Economics* (Moscow: University of Idaho, 1994), p. 91.

⁵ "Reforming the Western Range," *Different Drummer* 1:2 (Spring 1994) P 39.

⁶ Robert Nelson, "An Analysis of Revenues and Costs of Public Land Management by the Interior Department in 13 Western States Update, Office of Policy Analysis, U.S.D.I., September 1982. Nelson later revised and updated the report's finding to 1995.

poor grazing practices a predictable outcome on public rangelands. The stewardship disincentives inherent in small and community grazing allotments and the managerial disincentives implicit in regulatory prohibitions on grazing non use add to the problem. Further, a long history of intensive federal range improvement projects, rising permit fee indebtedness, emergency feed allocations, range betterment funds, subsidized experimental stewardship programs, government technical support services, and taxpayer-supported animal, insect, and brush control have perpetuated and rewarded non sustainable livestock use of public lands.⁷

Environmental groups have added to the controversy over ecological condition by expressing dissatisfaction with the slow improvement in public grazing lands. Studies by the General Accounting Office, for example, indicate that two-thirds of public rangelands remain in less than good condition and that the majority of western riparian areas and streams continue to be overgrazed and degraded.⁸

Despite an abundance of data, there is no national consensus on whether rangeland health and the rate of its improvement are satisfactory or not. What is satisfactory to ranchers or to the federal agencies is often unsatisfactory to hunter groups, recreationists, wildlife enthusiasts and wilderness devotees. Yet, the absence of an absolute standard against which to gauge the health of public rangelands does not alter the fact that increasing numbers of Americans are dissatisfied. Their public land expectations are not being met.

Science aside, the conflict over public land health is ultimately a clash of land-use values made inevitable by the politicization of rangeland resources. For this reason alone, a tightening of federal control and regulation over public land use is unlikely to attain the varied landscape outcomes sought by a highly complex and expanding universe of public rangeland users.

Equity in Allocation of Public Rangeland Costs and Benefits

Public rangeland policy was formulated during an era when 1) the rural West was dependent on natural resource extractive industries; 2) federal subsidization of agriculture, including livestock production, was deemed appropriate by society; and 3) demand for alternative uses of public rangelands, such as recreation, wilderness, clean streams, and abundant wildlife, was minimal. Today, those conditions have changed. The economy of the public land West is no longer dependent on extractive industries. Agricultural subsidization is now frowned upon in public policy. And demand for non-livestock uses of public rangelands is ascendent.

These trends clash with the reality of current public policy. Federal rangeland permits, for example, can only be acquired and traded by and between bona fide livestock operators. Americans who want to participate on an equal footing with public land ranchers but who have no desire to harvest federal grass with cattle and sheep are virtually locked-out of the system of allotment privileges accorded to grazing permittees. Except for costly and time-consuming changes in land-use plans, non-ranchers cannot as a rule acquire a grazing permit, retire the permit, and dedicate forage resources to non-traditive ends. Nonetheless, all taxpayers--even those who oppose

⁷ Carl Hess, Jr., *Visions upon the Land: Man and Nature on the Western Range* (Covelo, CA Island Press, 1992), Carl Hess Jr. and Jerry L. Holechek, "Policy Roots of Land Degradation in the Arid Region of the United States" *Environmental Monitoring and Assessment* 37(1995), pp.123-141 and "Beyond the Grazing Fee: An Agenda for Rangeland Reform," *Cato Institute Policy Analysis* No. 234, 13 July 1995.

⁸ General Accounting Office, "Rangeland Management: More Emphasis Needed on Declining and Over stocked Allotments," June 1988 and "Public Rangelands: Some Riparian Areas Restored but Widespread Improvement Will Be Slow," June 1988.

livestock use of public rangelands--must pay for the deficit-ridden grazing programs of the BLM and the Forest Service and bear the ecological costs of bad public policies.

Inequity on the public range is often user-blind. Ranchers who wish to allocate forage to nonconventional uses—whether for conservation or economic gain—are frequently stymied by non use proscriptions. Moreover, federal regulations do not discriminate between better and worse land stewards. All ranchers, irrespective of their grazing records, face the same regulatory hurdles, costs and disincentives. If anything, federal subsidies have rewarded ranchers with the least management acumen and put more skilled ranchers at a competitive disadvantage.

Strict federal regulations, in turn, have made it increasingly difficult for caring and innovative ranchers to profit from successful management. There is no certainty in federal law that ranchers will reap any or all of the benefits that come with healthier rangelands. At the same time, ranchers are unable to engage in alternative economic uses of rangelands in response to changing public demands. They are stuck with raising cattle, even if that contravenes the public's will and the economic demands of rangeland visitors. Federal law--not private intransigence--limits the economic uses of riparian and upland areas to fodder and water for livestock. Ranchers cannot stop grazing livestock and start growing wildlife, fish and vegetation, even if doing so makes economic, social and ecologic sense.

Public rangeland reform, if it is to succeed, must correct the glaring inequities in the current distribution of public land amenities and associated costs and benefits.

MARKET-BASED REFORM OF PUBLIC RANGELAND POLICY⁹

Rangeland reform to date has been misdirected and sidetracked, focusing on failed or largely inappropriate strategies. Higher grazing fees will not balance the grazing deficit, foster better grazing practices, or necessarily improve public land conditions. Regulatory management and gratuitous federal subsidies are not the panaceas that land agencies once envisioned them to be. Indeed, they have encouraged bad land practices to the same or greater degree than they have resolved them. Further, the distribution of federal rangeland resources remains riddled with inequity. Too many Americans are excluded from equal participation in rangeland use, and too many ranchers are needlessly constrained from, or penalized for, stewardship innovation.

Privatization is advanced as one solution. History, though, argues against it. In the 1870s when western settlement began in earnest, the arid range was seen as "vacant" and primed for settlement (occupancy by native Americans was ignored). Today, public lands—despite their federal ownership—are fully claimed by ranchers, farmers, miners, loggers, hunters, water districts, recreationists, all shades of environmentalists, and rural and urban communities. For privatization to occur and to be equitable, it would have to account for all pre-existing claims on public ranges--a politically improbable, economically costly, socially divisive, and ecologically questionable feat.

A different policy strategy for western public lands is needed, one that can set right the fiscal ills of the past, correct the ecological deficiencies of the present, and offer equal opportunity to all rangeland users in the future. The essence of that strategy is marketization. Its elements are:

- 1) fully marketable public land leases;
- 2) outcome based management in lieu of traditional prescriptive management;

⁹ Range reform discussion is drawn from "Reforming the Western Range", "Beyond the Grazing Fee," and Karl Hess, Jr., "Political Rights and Policy Wrong: The Ecology of Conflict on American Western Public Lands," forthcoming in Human Ecology Review. Spring 1997.

- 3) democratically elected and self-governing resource councils; and
- 4) locally-administered Biodiversity Trust Funds.

Marketable Public Land Leases

Existing grazing permits, and the rights and privileges attached to them, should be fully marketized. To attain this goal, the following steps must be taken:

- Transform grazing permits into secure, long-term (30 years or more) public land leases, grandfathering-in current permit holders;
- Remove statutory and regulatory proscriptions that constrain public land lessees and their allotments to domestic livestock production;
- Remand decisions on the degree of proper forage use--or non use--to lessees;
- Eliminate barriers (like base property requirements, sub-leasing prohibitions, and non use rules) to the trading of leases between willing buyers and sellers;
- Terminate all public land subsidies and entitlements to lease holders;
- Shift costs of management and monitoring to public land lessees;
[Lessees assume responsibility for land protection, restoration and monitoring.]
- Assess a minimal universal public land lease fee that covers reasonable agency oversight expenses and that is indexed to the national rate of inflation of goods and services; [Because of other cost savings, lease rates would not have to be significantly greater than current fees to balance the grazing deficit.]
- Broaden the range of allowed economic uses on public rangelands to foster and encourage diverse and sustainable land practices; [Lessees who use public grass to profit from livestock should be able to use that grass to profit from growing more wildlife, improving fisheries, and enhancing recreation.]
- Remove all barriers to lease holders for non-economic uses of public lands.

The advantages of marketable public land leases are apparent. Fiscally, they offer the prospect of shifting land-use costs from taxpayers to land users and erasing the deficits that plague agency grazing programs. Ecologically, they will enable new and more appropriate land uses on federal rangelands, facilitate shifts in land uses toward those demanded by the general public, and eliminate subsidies and other policy disincentives that foster non sustainable land practices. Marketable leases will also enlarge the pool of lessees, diversifying the management strategies needed to protect and restore America's public lands. In equity terms, they will democratize federal ranges by expanding public input and opening public lands in *substantive* ways to all citizens. Marketable leases will effectively level the public land playing field for everyone and provide the incentive environment to encourage and reward good land management and to dissuade and penalize bad land practices.

Outcome-Based Management

For market reform to be effective and workable, outcome-based management should replace prescriptive management. To do this, two policy conditions must be met: 1) lessees should have flexibility in the disposition and use of their public land leases and 2) the side-bars or conditions within which private land use on federal lands takes place must be clearly defined and consistently enforced.

De-Regulation

Prescriptive management on public lands has not worked. It has not prevented poor land practices and it has not led to better resource stewardship. It has proven costly, adding to agency deficits. It has formalized and enforced management that is more detrimental than beneficial to the nation's public rangelands. It has, by virtue of its historic inflexibility, mounted barriers to change and innovation in rangeland uses.

Outcome-based management, a vital ingredient of market-based reform, is strikingly different. For ranchers, it would mean deep de-regulation of the day-by-day activities of livestock production by removing all federal targets for livestock numbers, approved grazing systems, and times and seasons of livestock use. For other lessees, including ranchers who choose to experiment with non-livestock forage activities, it would be equally de-regulatory. It would expand management latitude by facilitating new land practices and by freeing lessees from the regulatory burdens of the past.

Locally-Appropriate Standards

Outcome-based management entails more than de-regulation. Historically, federal land policy has operated on the assumption that appropriate scientific management leads invariably to desirable outcomes. This has not happened on federal rangelands. A de-regulatory approach can partly, but not entirely, rectify this failure. Markets and incentives, for example, can effectively protect and optimize the specific resources and uses that come with public land leases. They cannot, however, always conserve the non leased amenities retained by the public--the intangibles of ecosystem process and the structural elements of biological diversity.

Standards, when site-specific and vigorously enforced, can, in part, help safeguard non-leased, public amenities. In a market-based reform regime, the attention of federal agencies would shift from mandating land practices and management details to monitoring the ecological effects of multiple land activities and enforcing compliance with locally-appropriate yet democratically-set standards. Such standards would establish the bounds within which private lease-holders could exercise their forage use claims without impairing ecological processes integral to habitat potential and associated rangeland life.

Standards would be the means to separate private lease claims to federal rangelands from general public claims to access to and enjoyment of those lands. They would give lease holders and the public predictability in the allocation of ecological costs and benefits (by identifying the rights and obligations of each), offer to both the consistency and predictability of enforcement, and provide effective judicial redress for mitigation of either resource damage or infringement of leasehold privileges.

Outcome-based management built on the twin pillars of de-regulation and locally appropriate standards would enable implementation of market-based reform, enhance environmental protection, and safeguard the interests of all rangeland users.

Popularly-Elected Resource Councils

Market and outcome-based rangeland reform are predicated on establishing governing policies and standards that reflect local conditions and respond to the values and resource demands of both resident and non-resident rangeland users. Under such a reform paradigm, ultimate responsibility for establishing management policy and setting appropriate standards would be transferred, to the extent possible, to self-governing and popularly elected resource councils.

Resource councils would be set-up on a watershed basis or rely on traditional administrative boundaries, such as BLM districts and resource areas or Forest Service districts and national forests. Voting membership in each resource council (as distinguished from universal rangeland access enjoyed by all citizens) would be allocated to 1) resident lease holders and 2) other users, irrespective of residence, who select a specific council area to exercise their participatory rights and who meet minimal membership qualifications. Such qualifications could range from none (open voting membership) to an annual membership fee and/or a voluntary contribution of time to local resource management.

Regardless of how the resource councils are internally structured, their roles would be substantial and clearly delineated. Federal agencies would continue to monitor the state of the land and to enforce standards and applicable federal laws. They would, however, devolve policy making duties and responsibility for formulating standards to individual resource councils (or, as situations might dictate, to federations of councils within common ecological landscape units, such as watersheds). Resource councils would enjoy a degree of independence and discretion comparable to that exercised by public land lease holders, but they would wield it over a wider array of public resources and across a more expansive public landscape.

Bio-Diversity Trust Funds

Markets are powerful conservation tools. They offer people incentives to steward and protect range resources having economic value--such as grass for cattle, elk for paid-hunting, and trout for fee-fishing. They also create opportunities for people to combine and pursue common goals that are not just economic. Land conservation by private groups like The Nature Conservancy exemplifies this creative use of markets. However, many public land amenities stubbornly elude market solutions because they lack economic value (like endangered species), because they have a value that cannot be fully captured in the market place (like open vistas and watershed health), or because the funds needed to acquire and protect them exceed private means.

As a compliment to markets, locally-controlled Bio-Diversity Trust Funds should be established within each council jurisdiction (or among alliances of adjacent councils) and financed from a percentage of local, across-the-board public land fees (including fees charged for general recreation). Trust dollars would be administered by resource councils within their respective jurisdictions and would be awarded on a merit basis to citizens, citizen groups, or agencies submitting the best proposals for restoration and protection of non-market public resources and amenities.

CONCLUSION

Support for market-based range reform is on the ascendancy in the United States.¹⁰ If implemented, it would comprehensively address the fiscal, ecological and equity concerns that have plagued and undermined public rangeland policy in the past. Marketable leases would transform public rangelands from an exclusive sanctuary for livestock production and public land ranchers to

¹⁰ Environmentalists voiced strong support for market approaches in lieu of rangeland legislation proposed by the Senate and the House during the 104th Congress. Currently, leaders from the major national environmental and ranching organizations are meeting to discuss elements of market-based reform of public land policy.

an open and democratic landscape where all Americans could find a place and a home for their landscape visions. Deregulation and locally-appropriate standards would set the parameters within which market forces and private management would function and flourish. Self-governing resource councils and Bio-Diversity Trust Funds would round-out rangeland reform by both complimenting and supplementing market mechanisms and private action. Together, these several elements of range reform would forge a durable and workable alternative to past policy and land management on America's western range.